

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)

Citizens for Claspill for Congress;)

MUR 4981

James L. Claspill, acting as treasurer; and)

Paul Brown)

GENERAL COUNSEL'S REPORT #4

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2002 SEP -3 P 4:33

I. ACTIONS RECOMMENDED

1. Take no further action and close the file.
- 2.
3. Administratively terminate Citizens for Claspill for Congress.
4. Direct the Data Division to restore the public record.

II. BACKGROUND

On February 28, 2001, the Federal Election Commission ("the Commission") found reason to believe that Citizens for Claspill for Congress (the "Committee"), James L. Claspill, acting as treasurer, and Paul Brown violated 2 U.S.C. § 434(b) of the Federal Election Campaign Act ("the Act").

James L. Claspill ("Claspill") was a purported candidate for the Democratic nomination in Missouri's Ninth Congressional District during the 2000 election cycle. The Committee, in its 1999 Year End Report, reported receiving \$250,460 in contributions, of which \$202,460 was not itemized. In addition, three of the 67 individuals listed as contributors (John W. Ballinger, William E. Maritz and Ann Tretter) provided sworn statements to the National Republican Congressional Committee in which they stated they never made contributions to the Committee.

After Claspill learned of the complaint filed in this matter, he reportedly told the *St. Louis*

Post-Dispatch that the Committee's treasurer, Paul Brown, made up information on the 1999

Year End Report to make it appear that he (Claspill) had more support than he actually did.

According to this article, Claspill further stated that he knew with certainty that of the 100 people

listed in the report, only four or five had actually contributed to the campaign. *See* First General

Counsel's Report, dated February 21, 2001, Attachment 11 at 3-4. After he reportedly fired Paul

Brown, Claspill filed several Quarterly Reports and Amended Reports. In those reports, Claspill

claimed he made: a \$100,000 contribution to his campaign on December 1, 1999; a \$200,000

contribution on December 1, 1999, which the Committee returned on March 3, 2000; and,

finally, a \$200,000 loan to the Committee, which the Committee repaid. *See* First General

Counsel's Report at 6-8.

In response to the Commission's Subpoenas and Orders, Claspill and the Committee

provided very little information and very few documents. *See* General Counsel's Report No. 3,

dated July 16, 2001. Consequently, the Commission approved a deposition subpoena for

Claspill. When this Office contacted Claspill's counsel to discuss potential deposition dates, we

were informed in writing they no longer represented Claspill or the Committee in this matter.

Attachment 1. Because Claspill was no longer represented by counsel, this Office decided to

conduct an informal interview in lieu of a formal deposition.

On February 20, 2002, this Office interviewed Claspill by telephone. Much of the

interview focused on the Committee's treasurer, Paul Brown, and Claspill's contacts with him.

After providing a detailed account of their first and only meeting, as well as Paul Brown's

involvement in preparing and signing the 1999 Year End Report, Claspill admitted that Paul

Brown did not exist and that he (Claspill) signed the report as "Paul Brown." Claspill went on to admit that he falsified all of the reports he filed in 1999 and 2000.¹ Attachment 2 at 4. At the conclusion of the interview, this Office suggested that Claspill send a letter to the Commission acknowledging what he had done. *Id.*

On February 25, 2002, this Office received a two-page handwritten letter from Claspill. Attachment 3. In his letter, Claspill admitted that all of the reports he filed with the Commission in connection with the 1996 and 2000 elections were false and that "there was never any money collected thus no money was spent, the reports were lies." Attachment 3 at 1. Claspill further admitted that there is no Paul Brown. *Id.* at 2.

III. ANALYSIS

The Commission's reason to believe findings that the Committee, Claspill and Brown violated 2 U.S.C. § 434(b) were premised on the assumption that Claspill was a candidate and the Committee, as Claspill's principal campaign committee, was required to file reports with the Commission. As discussed below, in light of Claspill's admission that there was no money collected or spent (*see* Attachment 3 at 1), Claspill was not a "candidate" for purposes of the Act (*see* 2 U.S.C. § 431(2)), and the Committee was not a principal campaign committee required to file reports pursuant to 2 U.S.C. § 434. Thus, Claspill's conduct does not give rise to any violations under the Act.

¹ Claspill also admitted that he filed falsified reports under the name of Paul Brown in connection with his unsuccessful race for the Democratic nomination in Missouri's Second Congressional District in 1996.

Under the Act, a candidate is required to designate, in writing, a political committee to serve as the principal campaign committee for that candidate. 2 U.S.C. § 432(e). The treasurer of a candidate's principal campaign committee is required to file periodic reports with the Commission disclosing all of the committee's receipts and disbursements. 2 U.S.C. § 434. The treasurer, "and any other person *required* to file any report or statement" is personally responsible "for the accuracy of any information or statement contained in [the report]." 11 C.F.R. § 104.14(d). (Emphasis added).

The term "candidate" means, *inter alia*, an individual who seeks nomination for election to Federal office. An individual is deemed to seek nomination to Federal office if he has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000. See 2 U.S.C. § 431(2). See also 11 C.F.R. § 100.3(a).

Although Claspill filed a Statement of Candidacy designating Citizens for Claspill for Congress as his principal campaign committee (Attachment 4), Claspill was never a "candidate" for purposes of the Act because, according to his sworn statement, "there was never any money collected thus no money was spent" ² Attachment 3 at 1. Consequently, Claspill was not a candidate and the Committee was never a principal campaign committee required to file reports. As such, no one is personally responsible "for the accuracy of any information or statement contained in [the report]." 11 C.F.R. § 104.14(d).

² This Office reviewed Claspill's bank statements and it appears that no campaign contributions were deposited into, nor any disbursements listed in the Committee's reports were made from, his bank account.

2

3

4

5

6

7

8

9

10

11

Claspill never became a candidate because he never met the

13 threshold requirement of receiving contributions or making expenditures aggregating in excess of

14 \$5,000. *See* 2 U.S.C. § 431(2). Further, because Claspill was not a candidate, the Committee

15 was not a principal campaign committee and, therefore, was not subject to the reporting

16 requirements of the Act. *See* 2 U.S.C. § 434(a). Accordingly,

17 this Office must reluctantly conclude that Claspill's serious misconduct did not violate the Act.

18

19

20

21

22-04-406-0027

In addition, this Office recommends that the Commission instruct the Reports Analysis

2 Division to administratively terminate the Committee, pursuant to the procedures outlined at
3 11 C.F.R. § 102.4, and notify Claspill of its intent to terminate the Committee. The
4 Commission's termination letter should then be placed on the public record with the statements
5 and reports filed by Claspill to provide a more complete historical record of this event. Further,
6 this Office recommends that the Commission direct the Data Division to restore the public record
7 by identifying and deleting the fictitious information entered in the FEC databases.

8 Compounding Claspill's damage to the integrity of the Commission's disclosure process,
9 Claspill failed to timely file the October 15, 2000 Quarterly Report for the Committee, thereby
10 triggering the Commission's Administrative Fines Program. As a result, the Commission
11 assessed a \$900 civil penalty against the Committee and Paul Brown. *See* AF #126. The
12 Commission made its final determination in AF #126 on September 21, 2001, the Office of
13 Administrative Review (OAR) referred the matter to the Treasury Department for collection on
14 November 5, 2001, and in January of this year, the Treasury Department referred the Committee
15 to a private collection agency. This Office has discussed the matter with the OAR. If the
16 Commission approves this Office's recommendation, the OAR will immediately contact
17 Treasury and recall the debt.

18 **IV. RECOMMENDATIONS**

- 19 1. Take no further action and close the file.
20 2.
21
22 3. Instruct the Reports Analysis Division to administratively terminate Citizens for
23 Claspill for Congress.

4. Direct the Data Division to identify and delete the fictitious information entered in the
FEC databases.

5. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

9/3/02
Date

BY: Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel

Jonathan A. Bernstein
Jonathan A. Bernstein
Assistant General Counsel

Jack A. Gould
Jack A. Gould
Attorney

Other staff assigned: James Pawlik

Attachments

1. Letter from Perkins Coie dated October 5, 2001
2. Report of Investigation dated March 5, 2002
3. James Claspill's handwritten letter and typed transcript
4. Statement of Candidacy dated July 29, 1999



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: September 3, 2002

SUBJECT: MUR 4981 – General Counsel's Report #4

The attached is submitted as an Agenda document
for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS

DISTRIBUTION

SENSITIVE

☒

NON-SENSITIVE

☐

72 Hour TALLY VOTE ☒

24 Hour TALLY VOTE ☐

24 Hour NO OBJECTION ☐

INFORMATION ☐

96 Hour TALLY VOTE ☐

COMPLIANCE

☒

Open/Closed Letters ☐
MUR ☐
DSP ☐

STATUS SHEETS ☐
Enforcement ☐
Litigation ☐
PFESP ☐

RATING SHEETS ☐

AUDIT MATTERS ☐

LITIGATION ☐

ADVISORY OPINIONS ☐

REGULATIONS ☐


OTHER ☐



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: Lawrence H. Norton
General Counsel

FROM: Office of the Commission Secretary 

DATE: September 5, 2002

SUBJECT: MUR 4981 – General Counsel's Report #4
dated September 3, 2002.

The above-captioned document was circulated to the Commission
on Wednesday, September 4, 2002.

Objection(s) have been received from the Commissioner(s) as
indicated by the name(s) checked below:

Commissioner Mason	—
Commissioner McDonald	—
Commissioner Sandstrom	<u>XXX</u>
Commissioner Smith	—
Commissioner Thomas	—
Commissioner Toner	—

This matter will be placed on the meeting agenda for

Tuesday, September 10, 2002.

Please notify us who will represent your Division before the Commission on this matter.